

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1484 – SB 1596

January 26, 2016

SUMMARY OF ORIGINAL BILL: Broadens the offense for school bus drivers using electronic devices, including but not limited to cellular telephones, when the school bus is in motion and when at least one child is on board, by changing the violation from a Class C misdemeanor punishable only by a fine of fifty dollars, to a Class A misdemeanor punishable by a minimum period of confinement of not less than 30 days, a minimum fine of not less than \$1,000, and the permanent loss of licensure for operating a school bus.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$900

Increase Local Revenue – \$100

Increase Local Expenditures – \$5,800/Incarceration*

SUMMARY OF AMENDMENT (011604): Adds provision making the legislation applicable to when the vehicle is stopped for the purposes of loading or unloading one or more children from the vehicle.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Tennessee Code Annotated § 55-8-192 prohibits school bus drivers from using a hand-held mobile telephone on any highway while the vehicle is in motion and while the vehicle is transporting children.
- The proposed bill as amended will make it an offense to use a “portable electronic device”—which includes: cellphones, personal digital assistants, devices with mobile data access, pagers, global positioning systems, and other devices if the device requires a driver to use one hand to hold it or enter data—anywhere in the state while the vehicle is in motion and transporting one or more children.
- The Administrative Office of the Courts (AOC) does not have statistics on offenses related to Tenn. Code Ann. § 55-8-192. AOC statistics show convictions in state courts,

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circuit or criminal courts, but not in general sessions courts, where almost all misdemeanors are disposed.

- According to the Department of Safety (DOS), their database does not separate offenses specific to Tenn. Code Ann. § 55-8-192, only recording them as general offenses.
- According to DOS, there are currently 15,795 bus drivers with endorsements from Safety.
- A recent study by the Centers for Disease Control and Prevention reports that 69 percent of Americans had used their cell phone while driving within the 30 days prior to being surveyed.
- School bus drivers are assumed to be less likely to use an electronic device than an average driver because of their responsibility of transporting children and due to existing local school district policies.
- Due to lack of data regarding the number of offenses, Fiscal Review staff, in conjunction with the Tennessee Highway Patrol, surveyed school systems in Knox County, Wilson County, Putnam County, Shelby County, and Metro Nashville-Davidson County, all of which have existing policies regarding the use of technology while driving a school bus.
- Based on survey responses, it is estimated that six drivers are either fired or suspended each year for violations of current state law or for violations of current LEA policy which is typically more stringent than state law. Any fine revenue currently being generated from bus drivers violating current state law is assumed to be not significant.
- Due to the severity of the proposed penalty for offenses, which includes a minimum fine of \$1,000 and mandatory jail time of 30 days, it is reasonable to presume that the number of offenses under this bill as amended will be significantly less than the number of offenses for violating current law or existing local school district policy. As a result, it is estimated that this proposal will result in three bus drivers being prosecuted each year statewide.
- The estimated 2015 cost per inmate per day for local jails is \$64.39.
- The proposed legislation will increase local incarceration expenditures by \$5,795 (3 x 30 days x \$64.39).
- Pursuant to Tenn. Code Ann. § 55-50-502(a)(1)(H), DOS confirms the ability to suspend or withhold an offender's driver's license for failure to pay fine revenue.
- Due to indigence, the large amount of the proposed fine, and the loss of income that will result due to offenders no longer being able to drive a school bus, it is reasonably assumed that two of the three assessed fines will go unpaid; and that one offender will pay the fine within the fiscal year, in order to retain and renew their regular driver license. Therefore, the proposed bill as amended is estimated to generate \$1,000 (\$1,000 x 1 paid fine) in new fine revenue each fiscal year.
- Local court clerks receive five percent of fine revenue; the state receives the remaining 95 percent.
- An increase in recurring state revenue of \$950 (\$1,000 x 95%).
- An increase in recurring local government revenue for the courts of \$50 (\$1,000 x 5%).
- The AOC reports that it can handle any impact within its existing resources.

- The proposed legislation will create 3 new misdemeanor cases each year. It is assumed that the District Attorneys General Conference and the District Public Defenders Conference can handle the increase to their caseloads within their existing resources.
- No significant change in the number of citations issued as a result of the additional provision added by amendment 011604.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee" followed by the letters "RNC" in a smaller, lighter script.

Krista M. Lee, Executive Director

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